

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:05-cr-184

-vs-

District Judge Walter Herbert Rice

Magistrate Judge Michael R. Merz

:

MARK J. THORNTON,

Defendant.

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**DECISION AND ORDER**

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This case is before the Court on Defendant's Unopposed Motion for Order to Inspect and Copy Montgomery County Jail Log Records (Doc. No. 249). The Motion was filed on the date set as the deadline for moving for discovery in this case, so the Court infers that the sought jail logs are the extent of discovery Defendant will seek in this case.

A movant under 28 U.S.C. § 2255 is not entitled to discovery as a matter of course, but only upon a fact-specific showing of good cause and in the Court's exercise of discretion. Rule 6(a), Rules Governing §2255 Cases; *Bracy v. Gramley*, 520 U.S. 899 (1997); *Harris v. Nelson*, 394 U.S. 286 (1969); *Byrd v. Collins*, 209 F.3d 486, 515-16 (6<sup>th</sup> Cir. 2000). However, applying the template supplied by the Supreme Court in *Bracy* and the concurrence of the United States Attorney, Defendant's Motion is GRANTED.

Rather than sign and file the proposed order suggested by counsel, the Court believes the

appropriate method to proceed is by subpoena duces tecum which Defendant's counsel is hereby authorized to issue for the relevant jail records.

January 29, 2013.

s/ *Michael R. Merz*  
United States Magistrate Judge